IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

A.O.NO.431 OF 2005

Smt. Sitabai P. Gaikwad .. Appellant

vs.

Niren Dharma Nikam
& Others .. Respondents.

Mr. S.V.Rajeshwar for the Appellant.
Mr. Shashipal Shankar for the Respondent No.1.

CORAM : A.S.OKA, J.

DATED : 12th April, 2005.

P.C. :

1. Heard Advocates appearing for the Appellant and Respondent No.1. The challenge in this Appeal from Order is to the impugned Judgment and Order dated 29.10.2004 by which temporary injunction has been granted in favour of the Respondent No.1 restraining the Appellant from dispossessing the Respondent No.1 from the suit premises without following the due process of law.

2. The learned Counsel appearing for the Appellant has placed reliance on order dated 4.9.2003 passed by the Director of BDD Chawl. He submitted that the order of eviction is already

passed against the Respondent No.1.

3. The documents on record prima facie indicate that the Respondent No.1 is in occupation of the suit premises. Even assuming that the Respondent No.1 has no right, title or interest in respect of the suit premises due process of law will have to be followed before the Respondent No.1 is evicted. Hence no fault can be found with order of temporary injunction passed by the learned trial Judge.

4. The Appeal from Order is, therefore, dismissed with no order as to costs.

5. It is clarified that the order impugned will not prevent the State Government from initiating action of eviction against the Respondent No.1 in accordance with due process of law.

6. Hearing of the suit is expedited. The learned trial Judge will decide the suit as expeditiously as possible and preferably on or before 30th April, 2006.

. Parties and the concerned Court to act on the authenticated copy of this order.

(A.S.Oka, J.)